IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 8508 of 2002

Between:

Smt. P. Pentamma, W/o. Late Sri P.Narsimha,
R/o.3-5-161, Old Post Office gally,
L.B. Nagar, Hyderabad.

..... PETITIONER

AND

1.The Managing Director, APSRTC,
Musheerabad, Hyderabad.
2.The Regional Manager, APSRTC,
Ranga Reddy Region, MGBS,
Imlibus, Hyderabad.
3.The Depot Manager, APSRTC,
Hyderabad - I Depot.

.....RESPONDENTS

The Court made the following:

ORDER:

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Questioning the action of the second respondent in issuing the proceedings No. RM: B6/255 (87)/2000-RR, dated 18.11.2000 refusing to consider the case of the petitioner for appointment to the post of Sweeper/Sramik under the Bread Winner Scheme, the present writ petition has been filed.

The case of the petitioner, in brief, is that her husband joined the services of the respondent-corporation as a driver on 28.07.1984 and worked continuously. While her late husband was driving the bus from Bangalore to Hyderabad, an accident took place on 26.06.1998 at Dhone and a lorry was coming in the opposite direction in a rash and negligent manner caused accident and her husband died on the spot. Subsequently, she submitted an application to the respondent-corporation to provide employment on compassionate grounds, but the second respondent erroneously rejected her application on the ground that there is a ban. It is the further case of the petitioner that the respondent Corporation provided employment on 03.03.2001 to one Smt. Asiasultana as a Sramik under the Bread Winner Scheme, who is now working as conductor at Midani Depot, and hence, she prays to allow the writ petition.

The respondent-Corporation filed counter-affidavit contending that there is absolute ban on recruitment of Sweepers in the Corporation and there are no vacancies in the category of Sweepers in Rangareddy region. As per her educational qualifications, she could not be provided for any other kind of employment in the Corporation and therefore, the proceedings dated 18.11.2000 were issued by the Personnel Officer, Rangareddy Region, informing the petitioner of the same and advising her to avail additional monetory benefits under the Additional Monetory Benefit scheme in lieu of employment. It is further contended that one Smt. Asia Sulthana was a qualified candidate for the post of Conductor and she was appointed as Conductor in Hyderabad City Region under the Bread Winner Scheme. Subsequently, she has opted for a change of cadre i.e. lower cadre as Shramic in Hyderabad City Region and has nothing to do with the vacancies in the Rangreddy Region and whereas the petitioner's husband was working in Rangareddy Region and in that region there are no vacancies of Shramik/Sweeper and the compassionate appointment can be made only in accordance with the scheme framed therefor and only in an existing vacancy. It is further contended that after the death of the petitioner's husband, a settlement has been made by the Corporation to an extent of Rs.3,73,083.00, besides sanctioning of family pension. Therefore, there are no merits in the above writ petition and is liable to be dismissed.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

The learned counsel for the petitioner contended that even though there is a ban, it does not give any bar for appointing as a Sweeper in view of the decision reported in **APSRTC, Imliban, Hyderabad and others v. Abidha Khannan**, wherein this Court held that the general ban is not a bar for appointing on compassionate grounds. He also further contends that if no vacancy in the Rangareddy Region, she may be appointed in another region. He further contends that after disposal of the case of the petitioner, one Asia Sulthana, W/o late Mohd. Majumuddin was appointed under the Bread Winner scheme, and therefore, he prays to allow the writ petition.

A perusal of the impugned proceedings clearly discloses that the case of the petitioner was rejected only on two grounds. Firstly, there is an absolute ban on the recruitment of Sweeper in APSRTC and secondly, there are no vacancies in the category of Sweeper in Rangareddy region. As per the educational qualifications of the petitioner, the respondent-Corporation was not able to provide any employment to the petitioner in the APSRTC and therefore, the petitioner was advised to avail the Additional Monetory benefit scheme introduced by APSRTC.

The first ground on which the case of the petitioner is rejected cannot be accepted in view of the judgment rendered by a Division Bench of this Court stated supra.

In so far as the vacancies are concerned, unless there is a clear vacancy of the post of Sweeper, the question of appointing the petitioner in the said post does not arise.

The case of Smt. Asia Sulthana is different than that of the case of the petitioner as she was a qualified candidate for the post of Conductor and she was appointed as Conductor in Hyderabad City Region under Bread Winner

Scheme and later, she has opted for a change of cadre i.e. lower cadre as Shramik in Hyderabad City Region, and so, her case is not applicable to the facts of the present case as she was appointed in the Hyderabad region.

Therefore, in the absence of a clear vacancy, the question of consideration of case of the petitioner for the post of Sweeper does not arise. However, when she and her family members are in harness condition, certainly her case is to be considered.

Accordingly, the writ petition is disposed of directing the second respondent to consider the case of the petitioner as and when vacancy arises in the cadre of Sweeper.

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(K.C. BHANU, J)

Date: 30.08.2005.

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